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Committee on Armed Services, U.S.
Senate

December 2001

EXPORT CONTROLS

Reengineering Business Processes Can Improve Efficiency of State Department License Reviews



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Abstract The U.S defense industry and some foreign government purchasers have expressed concern that the U.S. export control process is unnecessarily burdensome. Specifically, defense industry officials have stated that extended reviews of export license applications by the State Department are resulting in lost sales and are adversely affecting the nations defense industry. In the United States, the State Departments Office of Defense Trade Controls is the office responsible for licensing the export and temporary import of defense articles and services. In June 2001, we reported to you that the State Department completed over 46,000 license application reviews in fiscal year 2000. 1 While the U.S. export licensing process can be lengthy because of foreign policy and national security considerations, other factors may also have an impact on processing times. Therefore, you asked us to determine whether elements of the process create delays in license application reviews.		
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United States General Accounting Office
Washington, DC 20548

December 31, 2001

The Honorable Daniel Akaka
Chairman
The Honorable James M. Inhofe
Ranking Minority Member
Subcommittee on Readiness
and Management Support,
Committee on Armed Services
United States Senate

The U.S. defense industry and some foreign government purchasers have expressed concern that the U.S. export control process is unnecessarily burdensome. Specifically, defense industry officials have stated that extended reviews of export license applications by the State Department are resulting in lost sales and are adversely affecting the nation's defense industry. In the United States, the State Department's Office of Defense Trade Controls is the office responsible for licensing the export and temporary import of defense articles and services. In June 2001, we reported to you that the State Department completed over 46,000 license application reviews in fiscal year 2000.¹ While the U.S. export licensing process can be lengthy because of foreign policy and national security considerations, other factors may also have an impact on processing times. Therefore, you asked us to determine whether elements of the process create delays in license application reviews.

Results in Brief

Many license applications take a significant amount of time to review because of the complexity of the application and the need to consider different points of view in the review process. However, several conditions reduce the efficiency of the application review process and result in delays. Also, planned improvements to the license review process need to focus on key elements that cause delays.

- The State Department has not established formal guidelines for determining the agencies and offices that need to review license

¹ See *Export Controls: State and Commerce Department License Review Times Are Similar* ([GAO-01-528](#), June 1, 2001).

applications. As a result, the licensing office refers more license applications to other agencies and offices than may be necessary. Further, many license application reviewers in State Department reviewing offices consider license reviews low priority work.

- The State Department lacks procedures to monitor the flow of license applications through the review process. There are no guidelines on the length of time a review should take,² no requirements to justify a lengthy review, and no systematic checks on the progress of applications. In fiscal year 2000, hundreds of applications were lost and thousands were delayed while no substantive review occurred.
- The State Department has hired new licensing officers, which, according to license office officials, has decreased processing time, and the Department is planning to upgrade the office's electronic business system. However, the planned business system upgrade needs to focus on ensuring a controlled and timely flow of applications, and implementing a mechanism to track the progress of applications; otherwise, the benefits of the upgrade may be limited.

This report contains recommendations for the Secretary of State to develop guidance for referring applications and training for reviewing officials, establish timeliness goals to ensure the efficient flow of applications, implement a tracking mechanism to identify lost or delayed applications, and fix the process before proceeding with the new electronic business processing system.

In commenting on a draft of this report, the State Department said that the report indicates a failure to comprehend how U.S. foreign policy provides the context for munitions export controls. The Department appears to have missed the point of our report. As is clear from our scope and methodology, our report does not address the time spent in substantive review of license applications. It is primarily concerned with the procedures in place to ensure that license applications flow smoothly through the review process. On that point, the Department provided only one bit of additional information. That is that the licensing office reviews computer runs of pending cases to determine their status. However, the point of our finding is that monitoring the flow of license applications

² The Arms Export Control Act and the International Traffic in Arms Regulations do not mandate or recommend timelines for review of applications.

needs to be done on a routine basis, not sporadically, which is the current situation. We modified the language of our report to accommodate this additional information.

Background

Under the authority of the Arms Export Control Act,³ the State Department controls the export and temporary import of defense articles and services. The State Department's International Traffic in Arms Regulations explain specific licensing procedures.⁴ Companies that manufacture or export defense articles or provide defense services are required to register with the licensing office. Exporters must obtain a license to export defense articles or an agreement to export defense services.⁵

Exporters file license applications either electronically or in paper copy. Currently, 50 percent of applications are submitted electronically. For both electronic and paper copy applications, the State Department requires seven paper copies of supporting documentation, including brochures and technical data.⁶ The supporting documentation for one application can be several inches thick and occasionally much thicker. Applications are assigned a number and logged into the licensing office's database. Applications are distributed to licensing officers for initial review according to munitions categories, for example, firearms, aircraft,

³ 22 U.S.C. secs. 2751 et seq.

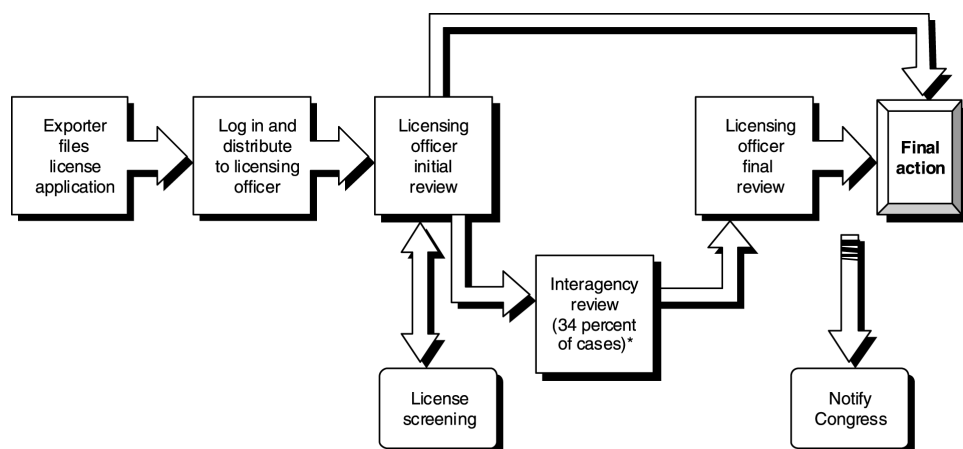
⁴ 22 C.F.R. secs. 120-130.

⁵ As explained in 22 C.F.R. part 120, agreements include manufacturing license agreements that allow a U.S. person to grant a foreign person an authorization to manufacture defense articles abroad; technical assistance agreements that permit the performance of defense services or the disclosure of technical data; and distribution agreements that allow the establishment of a warehouse or distribution point abroad for defense articles exported from the United States for distribution to entities in an approved sales territory.

⁶ According to the International Traffic in Arms Regulations, seven copies of supporting documentation are required for defense articles. The licensing office guidance also requires seven copies to be made for defense services. Only two copies are needed if the application is for a license renewal.

ammunition, and spacecraft systems.⁷ The names of the parties involved in an application are automatically screened by the database against a watch list of parties about whom prior concerns have been raised to determine if more intensive reviews are necessary. Figure 1 shows the key phases of the license application review process.

Figure 1: State Department License Process



*During fiscal year 2000, 66 percent of license applications reached final action without interagency review.

During the initial review, a licensing officer decides if there is enough information to make a decision. If there is, the officer makes a decision and takes final action on the application. If a licensing officer decides additional review is needed, the officer then decides which organizations, such as the Defense Department or other State Department offices, should conduct a further review. The Defense Department conducts a technical review, identifies national security concerns, and also identifies whether

⁷ License categories include firearms; artillery projectors; ammunition; launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs, and mines; explosives, propellants, incendiary agents, and their constituents; vessels of war and special naval equipment; tanks and military vehicles; aircraft, spacecraft and associated equipment; military training equipment; protective personnel equipment; military and space electronics; fire control, range finder, optical and guidance and control equipment; auxiliary military equipment; toxicological agents and equipment and radiological equipment; spacecraft systems and associated equipment; nuclear weapons design and test equipment; classified articles, technical data and defense services not otherwise enumerated; submersible vessels, oceanographic and associated equipment; and, miscellaneous articles, 22 C.F.R. part 121.

an application needs to be reviewed for Missile Technology Control Regime concerns.⁸ State Department offices review applications for foreign policy, human rights, and non-proliferation concerns. After deciding which offices need to review the application, the licensing officer forwards the application to administrative personnel who transmit the application package to the other agencies and offices. This referral process is not automated and relies on the physical distribution of paper documents via couriers to other agencies and inter-office mail to State Department offices.

In fiscal year 2000, the licensing office made 28,496 referrals for 15,512 license applications (about one-third of all applications) to other agencies and State Department offices. The average processing time for these referred applications was 91 days. For the 66 percent of applications that were not referred to other agencies, the average processing time was 23 days.

While applications are undergoing review outside the licensing office, administrative assistants maintain the application, answer calls from license applicants concerning the status of reviews,⁹ record agencies recommendations as they are received from reviewing agencies and offices, and attach the recommendations to the paper copy files of the applications. Once all recommendations have been received for an application, the assistants close the referral process and submit the application to the licensing officer for final review and action.

Under the Arms Export Control Act, the State Department is also required to notify Congress before approving applications that involve significant military equipment exports of defense articles and services valued over \$50 million, or exports of major defense equipment valued over \$14 million. The State Department cannot approve such applications until 15

⁸ The Missile Technology Control Regime was founded by the United States and six allies to limit the proliferation of rocket and unmanned air vehicle systems capable of delivering nuclear, biological, and chemical weapons of mass destruction and their associated equipment and technology.

⁹ Licensing officers and license reviewers in agencies and offices told us that they get frequent calls concerning the status of license applications. One licensing officer told us that he receives 30 calls a day from companies with concerns about license applications. The State Department provides license applicants the ability to electronically see the status of license applications. Industry representatives that we spoke with use this data to monitor the status of their applications and will call if an application appears delayed.

days after notification for applications to export to North Atlantic Treaty Organization countries and Australia, Japan, or New Zealand; 15 days after notification for exports of commercial communication satellites for launch from and by nationals of the Russian Federation, Ukraine, or Kazakhstan; and 30 days after notification for other countries. If the Congress enacts a joint resolution during that time period prohibiting the export, the State Department cannot issue the license. In fiscal year 2000, the State Department notified Congress of 123 applications. These applications averaged nearly 7 months to review. Our analysis did not include the portions of the license application review process associated with congressional notifications.

Export License Applications May Require Extensive Review, but Process Inefficiencies Cause Delays

Many license applications take substantial time to process because they require attention by the licensing office, other agencies, and other State Department offices. License applications that are referred to other agencies and offices for review take an average of more than two months longer to review than applications that do not leave the licensing office. However, the State Department has not established formal guidelines for licensing officers to use to determine which agencies and State Department offices need to see certain license applications. As a result, the licensing office may be referring more applications than necessary. Further, officials in State Department reviewing offices generally do not receive training on how the licensing process works or how to conduct a review and consider the reviews a secondary work priority.

The State Department lacks procedures to control the flow of license applications through the review process, and as a result, in fiscal year 2000, hundreds of applications were lost and thousands more were delayed. To improve license processing time, Congress increased the licensing office's budget. The licensing office has hired additional license officers and is planning to develop a new electronic business processing system, but improvement efforts also need to focus on guidance and training for referrals, and the new electronic system must incorporate procedures for ensuring the efficient flow of applications through the process.

Lack of Guidelines, Training, and Priority Delay License Reviews

Licensing officers lack formal guidelines on when to refer applications to other agencies and offices. As a result, applications may be unnecessarily referred, which results in longer processing time. In lieu of guidelines, licensing officers told us that they rely on prior cases and certain "rules-of-thumb" that they have learned, over time, from their predecessors or

supervisors. For example, applications involving new weapon systems or technical data and applications for license agreements, except for those involving minor amendments to previously approved agreements, are all referred to the Defense Department. When no existing rule applies, some licensing officers told us that they use their own rule, which is “when in doubt, refer it out.” Licensing officers told us that they once used the State Department’s country policy handbook as a guide for referring applications, but the handbook has not been updated since 1996 and is too out-of-date to be used. Licensing officers also told us that because of the lack of referral criteria, newer licensing officers tend to refer more applications.

Reviewing agencies and offices generally do not tell the State Department’s licensing office which applications they need to review. Over half of the license referrals are sent to the Defense Department, but there is no formal guidance explaining what applications the Department needs to review. Of the 11 State Department offices that frequently review applications, only one office, the Bureau of Democracy, Human Rights and Labor, provides written guidance on the applications it needs to review. An official in the Political-Military Affairs Bureau’s Office of Regional Security and Arms Transfer Policy told us that his office asks the licensing office for all applications that are referred to the geographic bureaus. However, he could not provide documentation of that guidance and licensing officers did not mention this guidance when we asked. An official in the Bureau of European and Eurasian Affairs said that he does not need to see most of the applications he receives. He told us he only needed license applications related to three countries, but had not told the licensing office.

The State Department does not provide training to license reviewers so that they understand how the licensing process works and what to look for when conducting a license application review. Several officials had only a limited understanding of the process and the purpose of their reviews. Of the officials we spoke with in State Department reviewing offices, only one told us that he attended a training course on the export license process. Officials in six reviewing offices were military officers on detail, generally as military attachés in geographic bureaus, and are only in their positions for a few years. Several license reviewers told us that they are not always sure why they have been asked to review specific license applications and do not always understand the issues or concerns associated with an application. One official told us that he calls other offices to make sure his recommendation is consistent with those offices. Two officials assumed that they received all license applications

associated with their geographic region and were surprised to find out that they review only a portion of those applications. One senior licensing officer told us that State Department license application reviewers do not provide adequate information when recommending a license denial, and licensing officers must go back to the reviewing official to obtain additional information to ensure that a denial is justified.

Reviewing officials in 10 State Department offices told us that reviewing license applications is only one of their duties, and in some offices, it is a secondary duty. For example, in geographic bureaus the military attaché, whose primary responsibility is providing military advice related to their geographic region, is often in charge of ensuring that license reviews are conducted. One attaché showed us a pile of license applications that he had accumulated over the past 4 weeks. The attaché explained that he waits for enough applications to come in so he can review them all in one afternoon. Other State Department reviewers told us that there are no backup personnel to handle application reviews. If a reviewer is on leave or work-related travel, the license applications wait for the reviewer's return with no action taken in the interim.

Lack of Procedures and Tracking Cause Delays in the Process

The State Department has not established procedures to ensure that agencies are conducting timely reviews of referred applications, that license application referrals are received when they are sent through the mail or by courier, and that applications that become lost or delayed are quickly identified.

Timely Reviews of Referred Applications: There are no guidelines governing the time permitted to review license applications, no requirement for a reviewing agency or office to justify a lengthy review, and the licensing office does not routinely check the status of a review unless an applicant calls to ask why an application is taking a long time. While the majority of reviews by other agencies and offices are completed in 26 days, 10 percent of referrals take 57 days or more. Several State Department license reviewers told us that applications frequently sit on their desk or the desk of other officials awaiting attention. As explained previously, several reviewing offices do not have backup personnel to handle application reviews when the reviewer is out of the office.

Ensuring Referrals Are Received: The licensing office has no procedures to ensure that other agencies or State Department offices receive license applications from the licensing office. Licensing office officials told us that they periodically send the Defense Department a list

of outstanding applications. However, no lists are routinely sent to State Department offices. Further, periodic lists do not identify applications until they are delayed for several weeks or more. State Department license reviewers told us that they frequently receive calls from applicants asking why their application is taking a long time. Reviewers told us that many of these inquiries identified applications that were either sent by the licensing office but not received by the reviewing organization or identified applications where the reviewer had returned the recommendation, but it was never received by the licensing office. When these cases are identified, the licensing office either sends another copy of the application to the reviewing office or the reviewing office sends a copy of its recommendation to the licensing office.

As shown in table 1, our analysis of applications completed in September 2000 that were referred to the Defense Department or State Department offices identified 233 instances where applications took more than 2 weeks to travel from the licensing office to a reviewing office or from a reviewing office back to the licensing office. We identified 101 instances in that month alone where an application took over 4 weeks to travel from one office to the next. For fiscal year 2000 as a whole, there were 254 instances where applications were lost between the licensing office and a reviewing agency or office. Once identified as missing, usually as the result of a contact from the license applicant, they had to be re-sent. These applications averaged 7 months in the review process.

Table 1: Time License Applications Take to Be Sent Between the Licensing Office and Reviewing Agencies, September 2000					
	0 to 7 days	8 to 14 days	15 to 21 days	22 to 28 days	29 plus days
State Department reviewing offices	464	210	68	41	91
Defense Department	2,342	318	17	6	10
Total	2,806	528	85	47	101

Note: Some data fields were blank or had incorrect data and some State Department reviewing offices did not have data indicating when they received or returned applications. When this occurred, we did not count the applications.

Tracking Lost or Delayed Applications: The progress of license applications are not tracked within the licensing office as applications move from one stage in the process to the next. While the majority of license applications took only 2 or 3 days to pass from one administrative point to the next within the licensing office during fiscal year 2000, we

identified 2,777 instances where applications took over 2 weeks and 674 of these took over 4 weeks to move from one point to the next while no substantive review activity occurred. The following describe three key stages of the licensing process where applications were delayed within the licensing office.¹⁰

- When a licensing officer decides to refer an application for review to another agency or State Department office, administrative personnel make copies and send the applications to each reviewing organization selected by the licensing officer. Licensing officers record the date they make this decision and administrative personnel record the date the application is sent to an agency or a State Department office. The majority of applications were sent to agencies and offices within 2 days of the licensing officers' decision, but 586 applications took more than 2 weeks and 118 of these took over 4 weeks. State Department personnel were not able to explain the delays.
- Agencies and State Department offices return a recommendation on each license application referral. Administrative personnel record the date each recommendation is returned. When all recommendations are received, the license referral process is complete and administrative personnel return the application to the licensing officer. Administrative personnel told us that they periodically check their files to see if they have overlooked any applications. These periodic checks depend on their workload. Our analysis showed that the majority of applications are returned within 3 days after the last recommendation is received, but 1,861 took over 2 weeks and 443 of these took over 4 weeks to be sent to a licensing officer for a final decision on the license application.
- Once a licensing officer decides to approve, deny, or return an application without action, the officer records the date and provides the application to administrative personnel who send the response to the applicant. The majority of responses took 3 days from the licensing officers' decision to the time the response was sent to the applicant, but 330 responses took over 2 weeks and 113 of these took over 4 weeks.

¹⁰ Because the licensing office does not record when administrative personnel send applications to licensing officers and when licensing officers receive these applications, we were not able to determine if applications become delayed or lost during the transfer or how long licensing officers take to conduct their initial reviews.

State Department Has Added Personnel and Plans to Automate the Process, but Needs to Focus on Correcting Process Weaknesses

The licensing office has taken steps to improve license processing time by hiring additional licensing officers and is planning to upgrade the office's electronic business processing system. The office's expenditures increased from \$4.6 million in fiscal year 1999 to \$9.3 million in fiscal year 2000. The number of licensing officers has risen from 23 in fiscal year 2000 to 34 in fiscal year 2001. The office reported that increased staffing has improved median processing time for referred applications from 69 days in fiscal year 2000 to 60 days in September 2001. The licensing office is also developing an information technology strategy with the long-term goal of automating the licensing process. It plans to

- automate the process for submitting license applications and supporting documentation;
- develop a means to electronically send license applications and supporting documentation to the Defense Department, which is also developing its own electronic system to process applications;
- accommodate new processing requirements such as additional reports;
- add high-speed scanners and barcode printing and reading equipment; and
- support future requirements in the areas of programming and support.

However, the State Department's plan to automate the licensing process needs to focus on making significant improvements to the licensing process before applying new technology. The Director of the licensing office told us that they will make process adjustments and changes in personnel as they are upgrading to a new electronic business system. In a 1994 study of fundamental practices that led to performance improvements in leading private and public organizations, we reported that electronic business system initiatives must be focused on process improvement. Information systems that simply use technology to do the same work, the same way, but only faster typically fail or reach only a fraction of their potential.¹¹ In May 2000, we reported that when developing new electronic business processes, it is important to ensure that current business processes are working well before applying new technology.¹² In fact, agency heads are required by the Clinger-Cohen Act of 1996 to analyze an agency's mission and revise mission-related processes, as

¹¹ *Executive Guide: Improving Mission Performance Through Strategic Information Management and Technology* (GAO/AIMD-94-115, May 1994).

¹² *Electronic Government: Federal Initiatives Are Evolving Rapidly but They Face Significant Challenges* (GAO-T-AIMD/GGD-00-179, May 2000).

appropriate, before making significant investments in information technology.¹³ Not revising business processes prior to investing in new technology creates the risk of merely automating inefficient ways of doing business.

In conducting our work, these comments were echoed by officials from other government agencies who we met with to understand ways to automate business processes that are similar to the license review process. Officials from the Defense Electronic Business Program Office and the Patent and Trademark Office told us that an essential ingredient for effectively transitioning to a new electronic business system is reengineering and streamlining of work processes before automating those processes. Automating an inefficient process will not likely make it more efficient.

Conclusions

License applicants have long complained that they cannot predict how long a license review may take and are frustrated by delays. Although licensing officers and license reviewers require time to deliberate and ensure that license decisions are appropriate, a substantial number of applications become stalled between reviews by licensing officers and reviewers. Improving efficiency, predictability, and timeliness of the process may be achieved with relatively small changes in guidelines and procedures.

Recommendations for Executive Actions

To improve the efficiency and timeliness of the munitions licensing process, we recommend that the Secretary of State direct the Office of Defense Trade Controls in conjunction with reviewing agencies and offices to

- develop criteria for determining which license applications to refer to other agencies and offices, and formal guidelines and training for organizations that receive referrals so that reviewers clearly understand their duties when reviewing license applications, and
- establish timeliness goals for each phase of the licensing process.

¹³ P.L. 104-106.

Further, we recommend that the Secretary of State direct the Office of Defense Trade Controls to establish a mechanism to track license applications through each phase of the process to ensure timeliness goals are met and applications are not lost or delayed.

To prevent imbedding an inefficient process into the State Department's planned electronic business processing system, we recommend that the Secretary of State ensure the steps outlined above are taken before proceeding with a new electronic processing system. The State Department should coordinate its efforts with the Defense Department because the Defense Department is also developing a new electronic system and receives the majority of license application referrals.

Agency Comments and Our Evaluation

In commenting on our draft report, the State Department said that certain of our findings appear to be premised on conjecture and a failure to comprehend how foreign policy provides the overall context for munitions export controls and that other findings appear to be exaggerated and reflect out-of-context presentations. Also, the Department stated that our presentation of data was inflammatory and trivialized the licensing officer's role in referring license applications for review. Further, our characterization of its plans to enhance automation was totally inaccurate.

The Department appears to have missed the point that our report, as stated in our scope and methodology, is primarily concerned with the procedures in place to ensure that license applications flow smoothly through the review process and not with the time spent in substantive license application reviews. In our review of State Department data, we took extreme care not to confuse legitimately lengthy license application reviews caused by national security and foreign policy concerns with delays caused by administrative inadequacies. Regarding the administrative process, the Department provided only one bit of additional information. That is that the licensing office reviews computer runs of pending license applications to determine their status. However, the point of our finding is that such monitoring needs to be done on a routine basis, not sporadically, which is the current situation. Licensing office personnel told us that these reviews of pending applications are generally done on an "as time permits" basis. We have modified our report to accommodate this additional information.

The Department referred to our point, early in the report, that industry has raised concerns about the effect of the process on U. S. defense industry sales as an example of our exaggeration and out-of-context presentation. It is not clear from the Department's comment whether it is taking issue with the validity of the comment or our statement that industry has raised the

concern. This statement was not intended to validate industry concerns but was merely meant to explain the reason why we were asked to examine the State Department's licensing process.

The Department's statement that the report is inflammatory relates to our statement that "hundreds" of applications were lost and "thousands" were delayed while no substantive reviews occurred. Our report provides a detailed explanation of the data on which our comment was based. Our use of the term "lost" refers to the fact that applications referred for review were sent by the licensing office but not received by the reviewing office and had to be re-sent. The Department states that no licenses were lost because the licensing office retains the original. The Department also pointed out that the "lost" applications are a very small percentage of the total number of license application referrals. We agree. Our point, however, is that applications that are lost could be easily identified and forwarded by a routine status review. Currently, the time required to process these lost applications, as we point out in the report, averages about 7 months. In terms of the delayed applications, the Department commented that it does not keep detailed diaries on every application and that the lack of an audit trail should not be a basis for "unqualified conjecture or speculation." Our statement that thousands of applications were delayed is based solely on detailed data provided by the State Department.

The Department stated that we trivialized the role of the licensing officer when we explained that there are no formal guidelines to assist in referring license applications and the Department further stated that decisions to refer license applications rely on practice, precedent, and the current state of foreign policy. The comments explained that licensing officers are trained to consider applications with the utmost seriousness. In our opinion, the lack of agreement and understanding between the licensing office and reviewing offices on the referral process demonstrates the problems that can occur when a process that requires actions and interpretations by a variety of people lacks formal guidelines. Our findings and recommendations were based on lengthy and structured interviews with all licensing officers who had over one year of experience and officials in State Department offices that receive these referrals. Based on the information provided by these officials, it is clear that State Department offices that receive referrals are at times confused about the referral process and licensing officers believe that further guidance would assist in making decisions to refer or not to refer a license application.

In regard to the Department's comment that our report is inaccurate concerning its automation plans, we held lengthy discussions with

managers from the Office of Defense Trade Controls concerning their information technology plans and evaluated existing copies of automation plans. Based on the State Department comments, we requested any additional information on technology modernization plans that we had not seen. The Department provided no further information concerning its plans. As stated in the report, the Director of the Office of Defense Trade Controls told us that he plans to correct inadequacies in the licensing process during the modernization. As we pointed out, past GAO work has proven that proceeding with information technology modernization without first correcting problems in current systems risks merely automating inefficient ways of doing business.

The State Department did not agree with our recommendation to develop criteria for determining which license applications to refer to other agencies and offices and to develop guidelines and training for offices that receive referrals. The Department commented that they have made a conscious, deliberate, decision not to develop guidelines that address every country or commodity. The Department explained that they have written operational and policy guidelines that are used extensively. The guidelines, however, are not written down in a single document and are heavily reliant on practice and the current state of foreign policy. The Department acknowledged that practice within certain regions needs to be updated and made uniform. During our structured interviews with licensing officers, we asked if there were written guidelines to guide license referral decisions and the licensing officers explained that there were none except for referrals related to the State Department's Bureau of Democracy, Human Rights and Labor. The Department's response to this recommendation did state that training for reviewing officers in State Department offices is needed, and the Department intends to discuss this issue as their information technology system is enhanced.

In response to our recommendation to establish timeliness goals, the Department said that it is considering a timeliness goal of 25 working days for license referrals, which is similar to the Department of Defense's self-imposed goal. The Department also explained that licensing officers have timeliness goals in their performance plans. Our concern in making this recommendation was not with the time spent in substantive review of applications but rather with the administrative procedures in the process. That is, those portions of the process in which paper moves from one desk to another during which there are no "value-added" steps occurring. The comments did not mention timeliness goals for administrative phases of the process within the Office of Defense Trade Controls.

The Department agreed with our recommendation to establish a mechanism to track license applications; however, it also stated that the capability to track already exists and the information technology modernization plan that is under development will be engineered to enable tracking. We agree that tracking is a current capability. Our recommendation is to begin using that capability to routinely track license applications. We hope that the Department intends to do that rather than waiting for a new system that has not yet been developed.

The Department did not comment on our recommendation to ensure the steps outlined in the previous recommendations are taken before proceeding with a new electronic processing system.

Scope and Methodology

To determine conditions that cause delays in the licensing process, we reviewed regulations governing the process, met with personnel who are involved in the licensing process, reviewed license applications, and collected and analyzed databases that show the flow of applications. We reviewed the Arms Export Control Act and the International Traffic in Arms Regulations to understand the rules that govern license processing. We also discussed guidelines with licensing office officials and license reviewers to understand written and verbal guidelines associated with the process.

To understand the process of reviewing license applications, we met with all licensing officers with more than one year of experience, and administrative personnel from the licensing office. Our interviews with the licensing officers were detailed and structured and we provided our questions to Office of Defense Trade Controls management in advance. To understand the role of license reviewers, we met with reviewers in the 11 State Department offices that review nearly all referred applications within the State Department. We also met with Defense Department officials who manage the review of license applications. We selected a random sample of applications that were completed in September 2000 and took over 90 days to process in order to understand the progress of license applications that take longer to review.

To analyze the flow of license applications through the process, we obtained the licensing office's database that has dates associated with the progress of license application reviews. We reviewed data on all license applications completed in fiscal year 2000. To determine how efficiently applications were transferred from one office to another, we compared data logs from the Defense Department and State Department reviewing offices with the licensing office's database for applications completed in

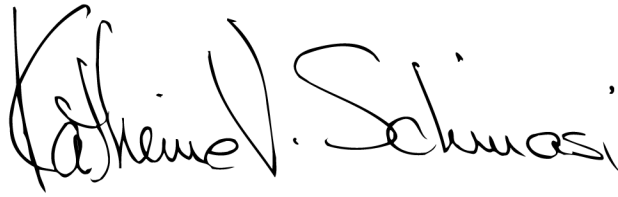
September 2000. We cannot be certain of the reliability of the data we reviewed. The State Department does not have a data dictionary that explains the data. As a substitute, we discussed key elements of the database with a State Department representative to ensure that we accurately interpreted the data. In a recent review of the Office of Defense Trade Controls, the State Department Inspector General sampled selected elements of the database and found data entry errors. While conducting our analysis, we also found data entry inaccuracies. We worked with a State Department representative to correct some of these inaccuracies. However, some data fields did not have entries. As a result, data for some license applications was incomplete.

We also collected information from the licensing office on their plans to improve license processing. We obtained information on their budget, staffing, and plans for a new electronic business system. We reviewed prior work to determine appropriate ways to implement new electronic business systems and met with the Defense Electronic Business Program Office and the Patent and Trademark Office to learn from their experiences. We also met with Defense Department officials who review State Department license applications to understand their efforts to coordinate the implementation of their electronic business system with State Department efforts.

We conducted our work between May 2001 and November 2001 in accordance with generally accepted government auditing standards.

As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days after its issuance. At that time, we will send copies to the Chairmen and Ranking Minority Members of the Senate Committee on Foreign Relations, the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on International Relations. We will also send copies to the Secretaries of State, Defense, and the Director, Office of Management and Budget. This report will also be made available on GAO's home page <http://www.gao.gov>.

If you or your staff have questions concerning this report, please contact me at (202) 512-4841. Others making key contributions to this report were Blake Ainsworth, Heather Barker, Raymond H. Denmark, Thomas J. Denomme, Minette D. Richardson, and John P. Ting.

A handwritten signature in black ink, reading "Katherine V. Schinasi". The signature is fluid and cursive, with the first name "Katherine" and last name "Schinasi" clearly legible, and a middle initial "V." in between.

Katherine V. Schinasi
Director, Acquisition and Sourcing Management

Appendix I: Comments From the U.S. Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State
Chief Financial Officer
Washington, D.C. 20520-7427

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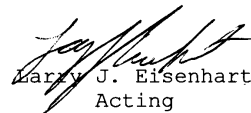
Dear Ms. Westin:

We appreciate the opportunity to review your draft report, "EXPORT CONTROLS: Establishing Procedures Can Improve Efficiency of State Department License Reviews," GAO-02-203, GAO Job Code 120052.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Michael Dixon, Deputy Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, at (202) 663-2798.

Sincerely,


Larry J. Eisenhart
Acting

Enclosure:

As stated.

cc: GAO/ASM - Ms. Schinasi
State/OIG - Mr. Atkins
State/PM/DTC - Mr. Lowell

Ms. Susan S. Westin,
Managing Director,
International Affairs and Trade,
U.S. General Accounting Office.

Department of State Comments on GAO Draft Report

"EXPORT CONTROLS: Establishing Procedures Can Improve
Efficiency of State Department License Reviews"
(GAO-02-203, GAO Code 120052)

State comments on this draft report are set forth below in detail. Overall, we found the draft report to be misleading and occasionally inflammatory. We hope that upon reviewing our comments on the draft the GAO will find it appropriate to make a number of modifications. As always, Department officers are prepared to discuss and elaborate on these comments in person at any time.

Summary

- Certain findings of the report appear to be premised in part on conjecture and a failure to comprehend how U.S. foreign policy provides the overall context for munitions export controls. This latter point is evident from the very start when the text admits only two possibilities for why some exports require a lengthy review: national security or "process." Reflecting this bias, the report then concentrates almost exclusively on the "process" associated with various foreign policy reviews conducted by State (while ignoring parallel questions involving national security reviews conducted by Defense).
- Other findings appear to be exaggerated and to reflect "out of context" presentation. For example, the report makes ample reference to industry concerns that excessive delays in export licensing at State were responsible for "lost sales" but fail to point out that the prior GAO review of this issue in an earlier report found that processing times at State and Commerce are similar. (In fact, the report does not acknowledge case processing times in FY 2001 continued to improve substantially. If the GAO reviewed current data, it would have found that the monthly median processing time for April through October of 2001 ranged from 51 to 60 days for referred cases, and 7 to 11 days for cases that were not referred.) The report also fails to point out that the GAO examined a detailed list of examples prepared by a trade association and found that those examples did not substantiate such concerns.

See comment 1.

- A further example of inflammatory presentation is the finding highlighted on page 2 of the report that "hundreds" of license applications were lost during reviews by State offices. The uninformed has to read the report in its entirety to understand that, in fact, no applications were lost. Rather, this finding refers to 254 instances where a State reviewing office requested a second copy of an application and that the frequency of this occurrence in Fiscal Year 2000 (the year examined was .0089 percent (254 out of 28,496 referrals).
- The finding on page 2 that "thousands" of applications languished for inordinate times while no substantive review took place is similarly seriously skewed. Again, one has to read well into the report to find the statement that the majority of applications move relatively quickly through various State Department procedures. We understand from GAO that the reference to the "thousands" that did not is actually to 2,774 applications (about six percent of the total caseload in Fiscal Year 2000). In such cases, the report observes soberly that State could not explain the reasons for the delays associated with these cases. More accurately, State explained to GAO from the first day of this review (and in other reviews) that it does not keep detailed diaries or audit trails on the processing of every munitions license application, but only records key intervals. The lack of an audit trail for every single follow-up action by State with U.S. exporters, or for various foreign policy or intelligence considerations associated with every application, should not provide a basis for unqualified conjecture or speculation.
- This is also apparently the case in the report's assertion that there are no guidelines for staffing cases. We find it difficult to believe that GAO believes the foreign policy reviews associated with arms exports function by serendipity. A more accurate presentation of this matter would have reported that staffing decisions are highly reliant on practice, precedent, and the current state of foreign policy vis-a-vis specific countries and regions -- and that all licensing officers are trained to consider munitions exports with the utmost seriousness and are conditioned to make their decisions, for which they are legally responsible on an individual basis, with an excess of caution. (This is the consideration the GAO report appears to trivialize by

quoting casual conversation in interviews with licensing officers.) Such a presentation would also have noted that, although not written down in a document to provide the GAO with a comprehensive audit trail, designated categories of exports and designated countries always require specific higher level review and approval, staffing to certain country desks, comprehensive checks of foreign bona fides by the CIA, etc. and that the computer operating system is programmed to flag and lock-down exports involving prohibited destinations/persons.

See comment 2.

- Similarly, the report's assertion about no follow through on staffing is incorrect.
- The characterization of plans to enhance automation operations is totally inaccurate. In fact, we believe that it is inappropriate for the GAO to include a section on IT because it did not study plans for IT development and there was no discussion of applicable business rules. Rather, the GAO apparently relied on a single brief discussion with DTC and general conceptual information that had been exchanged between DTC and private sector contractors. That said, we note that, utilizing resources that the Congress has explicitly sanctioned for IT development, planning for computer modernization is proceeding in strict compliance with law and government-wide policies.

Specific Comments

Other examples in which the GAO report seems exaggerated and/or flawed include areas enumerated below:

-- Budget data:

See comment 3.

Information on page 12 is incorrect. DTC received a \$2 million "plus-up" in Fiscal Year 1999; its Fiscal Year 2000 budget level was earmarked at \$9 million.

-- Staffing Guidelines:

See comment 4.

It is not accurate to state that there are no guidelines for staffing cases. Guidelines are not written down in a single document and they are heavily reliant on practice and the current state of foreign policy vis-à-vis specific countries and regions (and, in certain cases,

computer programmed to prevent issuance of a license without high level review). That said, we agree that, within certain regions (e.g., Europe) the practices for staffing to a number of countries need to be updated and made uniform throughout the system. That process began in October, 2001 and will continue. In addition, orientation for new officers is provided by a contract employee who retired from DTC after over 30 years of experience, including 10 years as the Office's most senior licensing officer. Designated senior staff provide on-the-job-training and mentoring under experienced officers continues until licensing team leaders are confident that new licensing personnel have adequate knowledge and background to make final decisions individually.

-- Timeliness Goals:

The report fails to acknowledge that the major delay in the referral process is the lack of sufficient supporting documentation or other deficiencies on license application submissions (ranging from insufficient copies for staffing to poor identification of end-use/end-user), which DTC officers take time in their attempts to correct shortcoming even though a case is never "taken off the clock" on computing processing time. Also, licensing officers, via job performance requirements, are mandated to ensure initial action on a case is taken within 10 working days.

The draft report statement that "no lists [of open cases] are sent to DOS offices" is inaccurate. DTC frequently reviews computerized runs of pending cases to determine open staffing points, which are then pursued in efforts to close out the cases. Personnel dedicated to monitoring status perform this function by region and officers on licensing teams do it according to U.S. Munitions List commodity.

The principal staffing agency for munitions licenses is the Department of Defense. That department has a self-imposed timeline for export licenses that it is generally meeting. We are also considering re-establishing with State bureaus a general goal of 25 days (in the absence of foreign policy considerations that warrant more time). But, we believe establishment of rigid goals, such as those that characterize dual-use exports, is not appropriate for sensitive arms exports. Nor do we believe such rigid

See comment 5.

See comment 6.

timelines are necessary given the significant improvements in processing times that have already been achieved since the period studied by GAO.

In connection with the automation of case referrals to State offices we will also be examining jointly with them the ground rules for referrals and tighter enforcement of the time frames in which they must act or, lacking a policy rationale, forfeit their voice on a given case. Reviewing offices have already been briefed by DTC regarding the nature of responses to staffed cases (in terms of substance and timeliness) that DTC expects. Of equal performance, DTC has emphasized that staffing is activated because the Office has a responsibility under the Arms Export Control Act to ensure that U.S. foreign policy is adequately taken into consideration for each case.

-- IT Enhancement:

While the report says the auditors "obtained information on [the Department of State's] plans for a new electronic business system," the profound lack of understanding about plans to enhance IT operations that support export license review is evident. The Department plan is not an effort to merely automate human activity in the export license review process. Rather, Department plans related to IT modernization in the defense trade controls function reflect a long-held recognition that the volume of activity, the national security considerations, and the foreign policy impact mean the State Department must address timely, efficient submittal and review of proposed exports and must ensure the most accurate and timely information is provided for decision-making in licensing and for compliance and enforcement purposes. On that basis, State has made the policy commitment necessary to address the difficulty in handling voluminous hardcopy supporting documentation for those cases that are referred to DoD and other offices/agencies, and we are now hard at work to plan a program for fully electronic submissions and referrals of export license applications.

-- Technical/Legal Corrections:

- References to import authorization authority (pages 1 and 3) should be modified to read "temporary import".

See comment 7.

See comment 8.
Now on p. 2.

Now on pp. 5 and 6.
See comment 9.

- Footnote #2 (page 3) should be modified to read: "The applicable statute, the Arms Export Control Act, does not mandate or recommend timelines for review of applications."
- The first paragraph of page 6 should be modified to read: "Under the Arms Export Control Act, the State Department is also required to notify Congress before approving applications that involve significant military equipment exports of defense articles and services valued over \$50 million, or exports of major defense equipment valued over \$14 million. The State Department cannot approve such applications until: 15 days after notification for applications to export to North Atlantic Treaty Organization countries and Australia, Japan, or new Zealand; 15 days after notification for exports of commercial communication satellites for launch from, and by nationals of, the Russian Federation, Ukraine or Kazakhstan; and 30 days after notification for other countries. If the Congress enacts a joint resolution during that time period prohibiting the export, the State Department cannot issue the license. In fiscal year 2000, the State Department notified Congress of 123 applications. These applications averaged nearly 7 months to review. Our analysis did not include the portions of the license application review process associated with congressional notifications."

Responses to GAO Recommendations

The draft audit report recommendations (and Department responses) are that DTC:

- a) develop criteria for determining which license applications to refer to other agencies and offices, and formal guidelines and training for organizations that receive referrals.

Staffing is an exceptional circumstance. DTC has made a conscious, deliberate decision not to develop guidelines that would purportedly address every country or commodity. Licensing team leaders provide training on the entire licensing process including staffing and some review all staffing decisions. Staff are trained to analyze numerous factors (e.g., destination, regional context, commodity and quantities, end-use, identity and bona fides of end-users, level of technology, technical data vs. hardware

considerations, precedent approvals, known national security concerns) to make reasonable staffing recommendations. Written operational and policy guidelines, as described in Department comments about the report above, do exist and are used extensively. In addition, new licensing officers have been provided a document identifying the various offices/agencies and some guidelines for referral. While excessive referrals are undesirable, it is preferable that officers err in referring cases as opposed to authorizing an export without appropriate referral. More junior officers operate with less discretion and receive guidance from senior personnel and team leaders to develop their skills. With the number of new officers that have joined the Office, DTC has placed a priority on providing oversight in identifying cases that should be referred rather than placing an initiative for review of cases that have been referred. Training will make final decisions easier for individual officers, but the key (and appropriate) factor at work is licensing officer familiarity and experience with munitions commodities, foreign policy objectives, and national security concerns.

As noted above, a DTC briefing with other agencies addressed the need for training for reviewing officers in other State Department offices. DTC intends to follow up, and will be discussing this issue more thoroughly as the Office IT system is enhanced. DoD, the principal staffing point for munitions license applications, of course, has a separate group of disciplines for case review, based on that agency's directives, policies, and procedures.

b) establish timeliness goals for each phase of the licensing process.

The referral point receiving most DTC licenses for review, DoD, has a self-imposed processing timeline goal of 25 working days. A similar timeline for other agencies and offices is under consideration in DTC. In the meanwhile, DTC licensing team leaders have undertaken to use existing automated case files to monitor and track cases, with an emphasis of follow-up with other offices and agencies for any case that has returned from DoD review. Job elements in licensing officer performance plans specify that initial processing of cases is to be completed within 10 days of receipt of an application and that technical and policy

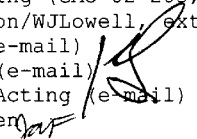
recommendations are to be reviewed and the decision-making process is to be completed within 5 days of receipt. IT enhancement, with a sophisticated "tickler" system, will be of substantial assistance in enforcing timeline goals.

- c) establish a mechanism to track license applications ...and ensure the steps above are taken before proceeding with a new electronic processing system.

The Department fully recognizes the requirements to enhance monitoring and tracking of both staffed and non-staffed cases and long before the GAO report, initiated actions to supplement human resources with technical means via IT modernization. While capability for tracking cases already exists, an electronic licensing "proof of concept" currently under development is specifically engineered to establish a mechanism to move documents electronically and to better enable DTC tracking. This effort is being undertaken in concert with the activities described in our above response to other GAO recommendations and will proceed in compliance with OMB Circular No. A-130 (revised) and the Clinger-Cohen Act. Coordination with DoD and industry is expected to be extensive in the development and implementation phases of the envisioned system.

**Appendix I: Comments From the U.S.
Department of State**

GAO - Licensing Processing (GAO-02-203; GAO Code 120052)
Drafted: PM/DTC - MTDixon/WJLowell, ext. 32861
Cleared: L/PM - MShah (e-mail)
A/LM - RLower (e-mail)
PM - RWMaggi, Acting (e-mail)
FMP - JFishenden



GAO Comments

1. We changed the text to reflect that the U.S. export licensing process can be lengthy because of foreign policy and national security considerations, not just national security considerations.
2. We changed the text on page 8 to state that the licensing office does not routinely check the status of license reviews.
3. This State Department comment is not correct. Through discussions with State Department budgeting officials, we determined that the information in the draft report is correct. The data we reported are actual Office of Defense Trade Controls expenditures for fiscal years 1999 and 2000. The State Department comments refer to authorized funding levels that were not actually spent in fiscal year 1999.
4. The report states that the State Department does not have formal guidelines for referring license applications to other agencies and offices.
5. The licensing office did not provide sufficient information for us to validate this statement.
6. We revised text on page 8 of the report to say that no lists are routinely sent to State Department offices.
7. Text revised.
8. Text revised.
9. Text revised.

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